

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: DIGITEK®
PRODUCT LIABILITY LITIGATION

MDL NO. 1968

**DEFENDANTS ACTAVIS TOTOWA LLC, ACTAVIS ELIZABETH LLC,
AND ACTAVIS INC.'S MOTION TO APPROVE ESTABLISHMENT OF
THE DIGITEK® LITIGATION QUALIFIED SETTLEMENT FUND AND
DIGITEK® LITIGATION ADMINISTRATIVE FUND**

Defendants Actavis Totowa LLC, Actavis Elizabeth LLC, and Actavis Inc. (collectively, “Actavis”) move for Court approval to establish the Digitek® Litigation Qualified Settlement Fund and the Digitek® Litigation Administrative Fund (“Funds”).

Under Section 2.03(B) of the September 1, 2010 Settlement Agreement, Actavis and Negotiating Plaintiffs’ Counsel (“NPC”)¹ conferred regarding the institution that will hold the funds. Subsequently, Actavis and the Special Master met with United Bank to investigate the best forms of account to hold the funds. Actavis and the Special Master have agreed that United Bank shall hold the funds under the terms of the documents attached to this Motion as Exhibit A. Actavis and NPC request that the Court approve the establishment of these Funds.

As the Settlement Agreement states:

The institution so chosen shall thereupon consent to the jurisdiction of the MDL Court, acknowledging that the institution and “Escrow Agent” alone have the obligation to manage the Settlement Funds. Periodic reports shall be made to the MDL Court of the interest earned, distributions made, and other matters involving the status of administration. Its management shall thereafter be subject to review by the MDL Court.

¹ Negotiating Plaintiffs’ Counsel includes Fred Thompson, Motley Rice LLC; Carl Frankovitch, Frankovitch, Anetakis, Colantonio & Simon; and Harry Bell Jr., The Bell Law Firm, PLLC.

Settlement Agreement § 2.03(B).

Respectfully submitted,

TUCKER ELLIS & WEST LLP

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*Attorneys for Defendants Actavis Totowa LLC,
Actavis Inc., and Actavis Elizabeth LLC*

CERTIFICATE OF SERVICE

I, Matthew P. Moriarty, hereby certify that, on November 4, 2010, I electronically filed **Defendants Actavis Totowa LLC, Actavis Elizabeth LLC, and Actavis Inc.'s Motion to Approve Establishment of the Digitek® Litigation Qualified Settlement Fund and Digitek® Litigation Administrative Fund** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Respectfully submitted,

TUCKER ELLIS & WEST LLP

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